

REMARKS

Status of the Claims

Claims 26-29 are pending; claims 1-25 are canceled; and claim 27 is amended.

Claim 27 is amended. Support for the amendments is found in the Specification, at page 18, lines 17-18, and page 15, lines 6-8.

No new matter has been added.

1. Interview

Applicants sincerely thank the Examiner and her Supervisor for participating in the Interview on November 18, 2008. During the Interview the Written Description and Indefiniteness rejections were discussed.

2. Claim Rejections under 35 U.S.C. § 112, Written Description

The Examiner rejects claims 26-29 as lacking written description in the Specification as filed. The Examiner states that the limitation "wherein the emulsion is dispersed without any particles that have a diameter of 100µm or more. . ." does not have support in the Specification as filed. The Examiner asserts that such a limitation is "new matter."

Applicants have amended the claims to omit "wherein the emulsion is dispersed without any particles that have a diameter of 100µm or more." Applicants submit that this amendment overcomes the written description rejection. Applicants request that it be withdrawn.

3. Claim Rejections under 35 U.S.C. § 112, Second Paragraph

The Examiner rejects claim 27 as indefinite. The Examiner states that "wherein the emulsion is dispersed without any particles that have a diameter of 100µm or more. . ." is indefinite because "it does not recite an upper limit."

Applicants have amended the claim to omit the phrase "wherein the emulsion is dispersed

without any particles that have a diameter of 100μm or more" and add a fine particle size range. Applicants submit that this amendment overcomes the written description rejection. Applicants request that it be withdrawn.

The Examiner also states that it is unclear whether the term "particle" refers to the cell wall skeleton or the oil particles within the oil-in-water emulsion. Applicants have amended the claims to recite visible crude particles and fine particles. Applicants submit that this amendment obviates the Examiner's rejection. Applicants respectfully request that the rejection be withdrawn.

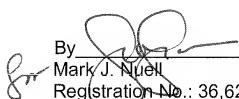
4. Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Mark J. Nuell, Registration No. 36,623 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: November 19, 2008

Respectfully submitted,

By 
Mark J. Nuell
Registration No.: 36,623
BIRCH, STEWART, KOLASCH & BIRCH, LLP
12770 High Bluff Drive
Suite 260
San Diego, California 92130
(858) 792-8855
Attorney for Applicant

#471604